

Appl. No. : **09/539,032**
Filed : **March 30, 2000**

REMARKS

Claims 1, 4 and 6-9 have been amended. Thus, claims 1-4 and 6-9 remain presented for examination. Support for the amendments to the claims may be found in the original claims and throughout the specification. Thus, no new matter has been added. Reconsideration and withdrawal of the present rejections in view of the amendments and comments presented herein are respectfully requested.

Claim objections

Claims 4 and 6 were objected to based on recitation of an improper Markush group (lack of a conjunction between the last two members of each list). Claims 4 and 6 as amended recite -- and-- before the last member of each list.

In view of the claim amendments, Applicants respectfully request reconsideration and withdrawal of the claim objections.

Rejections Under 35 U.S.C. §112, second paragraph

Claims 1-4 and 6-9 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. The Examiner alleges the last step of claim 1 is unclear based on recitation of "wherein said conserved peptide sequences which are not present in host proteins are useful as drug targets." The Examiner also states that the originally filed disclosure does not provide support for further method steps of "using" conserved peptide sequences as drug targets, nor for a step of identifying only those peptides which are known to be drug targets. The Examiner noted that deletion of this phrase would overcome this rejection. Although Applicants do not agree that recitation of this phrase is indefinite or unsupported by the specification as filed, this phrase has been deleted from the claim solely to expedite prosecution of the application.

Claim 7 was rejected as indefinite because it was unclear whether the recited steps were intended to replace the matching of claim 1, or to be in addition to the matching of claim 1. In addition, the Examiner stated that the recitation of comparing "peptide sequences" in line three of claim 7 was not clear, since claim 1 recites generating overlapping peptide sequences in step (i), and recites sorting the generated sequences in step (ii). Claim 7 as amended recites sorted

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peptide sequences in step 2, and matched sequences in step 3. Thus, it is now clear which peptides recited in claim 1 are being referred to in claim 7.

The Examiner rejected Claim 8 as indefinite, contending that it was unclear whether the recited steps intended to replace the locating a labeling of claim 1, or to be additional to the locating and labeling (i.e., where a second labeling step is performed). In addition, the Examiner stated that it was unclear whether the “protein sequences” recited in lines 3 and 4 is intended to be the selected protein sequences recited in claim 1, or another protein sequence.

Claim 8 as amended clarifies these issues by reciting the “locating” language used in claim 1, and by specifying that the protein sequences are the selected protein sequences.

Claim 9 was rejected as indefinite based on the language recited in step (v), since it was considered unclear whether the steps in claim 9 were intended to replace the joining of claim 1, or were intended to be additional to the joining of claim 1. Claim 9 as amended clarifies that the latter choice is intended.

In view of the claim amendments and comments presented above, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §112, second paragraph.

Rejection Under 35 U.S.C. §101

The Examiner rejected Claims 1-4 and 6-9 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. The Examiner contends that the claims are directed to a method comprising only computational or algorithmic steps without an actual “transformation of matter” (i.e. communicating the result of the comparison to a user in any tangible form). Claim 1 as amended recites communicating the conserved peptide sequences from the selected pathogenic organisms not present in the host proteins to a user.

In view of the amendment and comments presented above, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §101.

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CONCLUSION

Applicants have made an earnest effort to respond to all objections and rejections set forth in the Office Action, and submit that all claims are in condition for allowance. If any issues remain that could be resolved by telephone, the Examiner is cordially invited to contact the undersigned at the telephone number provided below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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